THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.273 of 2001

1st September 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05.12.2000 in W.P.NO.22571 OF 2000 on the file of the High Court.)

Between:

1. The APSRTC, rep.by its Vice Chairman-cum-Managing Director, Musheerabad, Hyderabad and 4 others.

...APPELLANTS/RESPONDENTS

AND

Smt.M.Devi, W/o.late M.V.S.Narayana, 28 years, R/o.Advivaram, Vizianagaram District.

...RESPONDENT/PETITIONER

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT APPEAL NO.273 of 2001

JUDGMENT: (Per the Hon'ble Mr Justice B.Prakash Rao)

The appellant-Corporation seeks to assail the order dated 05.12.2000 allowing W.P.No.22571 of 2000 filed at the instance of the respondent herein, wherein she sought a Writ of Mandamus to direct the Corporation to grant the death benefits to her treating that her husband died while in service on 27.11.1999 in view of the review order dated 27.01.2000 by setting aside the proceedings No.P1/371(4)/2000-VZM, dated 03.05.2000.

The facts, which are necessary for disposal of this appeal, are that the respondent's husband, who was in service, was removed from service on 13.11.1996 through proceedings No.P2/1(22)/96-DM-VZM. Subsequently, an appeal was preferred before the Deputy Chief Mechanical Engineer and the same was rejected on 02.12.1997 on the ground that it was filed belatedly. However, the Review Petition filed on 01.03.1999 was allowed on 27.01.2000. During the pendency of the Review proceedings, the writ petitioner's husband died on 27.11.1999. She sought her case to be considered under the Bread Winner Scheme. However, the appellant-Corporation rejected the same on the ground that since her husband died, the writ

petitioner is not entitled for such benefit. The learned Single Judge, after taking into consideration the objection raised on behalf of the appellant-Corporation, did not find favour with the same and having regard to allowing of the Review Petition, he was under impression that the order is valid and the writ petitioner's husband was deemed to be in service. Therefore, the writ petitioner is entitled to the relief as sought by her and the appellant/Corporation was directed to consider the case of the writ petitioner under the Bread Winner scheme.

Having heard both the sides, we do not find any merits in the appeal, especially in view of allowing the Review Petition and more so, the impugned order of removal of service is valid which necessarily consequence that the writ petitioner's husband was deemed to be in service. The writ petitioner squarely falls within the parameters for the purpose of consideration under Bread Winner Scheme. Hence, there are no merits.

The Writ Appeal is accordingly dismissed. No costs.

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(B.PRAKASH RAO, J)

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(DR G.YETHIRAJULU, J)

1st September 2005

RRB

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